



COUNTY OF LOS ANGELES  
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July 16, 2008

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TO: SACHI A. HAMAI  
Executive Officer  
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Attention: Robin Guerrero  
Deputy Executive Officer  
Board Operations

FROM: JOHN F. KRATTLI  
Senior Assistant County Counsel

RE: **Marcos Fernandez, et al. v. County of Los Angeles**  
**Los Angeles Superior Court Case No. TC 018 956**

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation in the above-referenced matter.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda for July 29, 2008.

JFK:rfm

Attachments

## Board Agenda

### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Marcos Fernandez, et al. v. County of Los Angeles, LASC Case No. TC 018 956, in the amount of \$850,000, plus the assumption of a Medi-Cal lien in the amount of \$56,294, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Health Services' budget.

This medical negligence lawsuit arises from injuries sustained after a patient received care and treatment at the Dollarhide Health Center.

## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

|                            |   |
|----------------------------|---|
| CASE NAME                  | Marcos Fernandez, et al. v. County of Los Angeles   |
| CASE NUMBER                | TC 018956   |
| COURT                      | Los Angeles Superior Court<br>South Central District  |
| DATE FILED                 | May 18, 2005  |
| COUNTY DEPARTMENT          | Department of Health Services   |
| PROPOSED SETTLEMENT AMOUNT | \$850,000, plus assumption of Medi-Cal lien in the amount of \$56,294.  |
| ATTORNEY FOR PLAINTIFF     | Shirley Watkins, Esq.   |
| COUNTY COUNSEL ATTORNEY    | Richard Mason   |
| NATURE OF CASE             | <p>This is a medical malpractice case brought by Jenny Fernandez and her son, Marcos Fernandez, for the injuries that they suffered while Jenny Fernandez was receiving care at the Dollarhide Health Center ("DHC"), a County facility.</p> <p>On November 25, 2003, as a part of her ongoing care, Jenny Fernandez presented to DHC to receive a special medication to prevent pregnancy. Ms. Fernandez was in fact pregnant on that day but she was not aware.</p> |

Since Jenny Fernandez had previously received contraceptive medications, the DHC staff did not perform tests to ensure that Jenny Fernandez was not pregnant at that time. Ms. Fernandez received her scheduled contraceptive medication and was sent home.

Ms. Fernandez went through the course of her pregnancy, and on May 17, 2004, while she was at home, she gave birth to her son, Marcos Fernandez.

Both Marcos Fernandez and Jenny Fernandez filed a lawsuit against the County claiming that the DHC staff were negligent in not performing a pregnancy test on November 25, 2003. The plaintiffs further claim that as a result of such negligent care, Jenny Fernandez did not know that she was pregnant and as such, did not receive prenatal care leading to injuries suffered by both Jenny and Marcos Fernandez.

While the County will assert that Jenny Fernandez should have known that she was pregnant, considering the risks involved in a jury trial, including the potential exposure in this case, the Department of Health Services agreed to propose a settlement of this case in the amount of \$850,000, plus assumption of Medi-Cal lien in the amount of \$56,294.

|                             |              |
|-----------------------------|--------------|
| PAID ATTORNEY FEES, TO DATE | \$164,184.92 |
|-----------------------------|--------------|

|                     |             |
|---------------------|-------------|
| PAID COSTS, TO DATE | \$46,535.73 |
|---------------------|-------------|

## Summary Corrective Action Plan



|  |   |
|--|---|
| Date of incident/event:                              | May 17, 2004  |
| Briefly provide a description of the incident/event: | Jenny Fernandez presented to Dollarhide Health Center on August 19, 2003, for birth control. After two consecutive negative pregnancy tests, she received Depo Provera. On November 25, 2003, she returned to the clinic for no menstrual flow, which is common with Depo Provera. Her uterus was enlarged and an ultrasound was ordered but was not done. Ms. Fernandez did not return for her scheduled Depo Provera injection in February 2004. On May 17, 2004, Ms. Fernandez partially delivered a baby at home. Ms. Fernandez maintains that she did not know she was pregnant. |

1. Briefly describe the root cause of the claim/lawsuit:

- Failure to diagnose pregnancy on November 25, 2003.

2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

- On March 19, 2008, through March 26, 2008, the policy for the process for ordering radiologic studies and follow up was reviewed with staff at Dollarhide Health Center and at Hubert H. Humphrey Comprehensive Health Center.

3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☒ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☐ Does not appear to have County-wide or other department implications.

|   |                  |
|---|------------------|
| Signature: (Risk Management Coordinator)<br><i>K. McKenna</i> | Date:<br>6/26/08 |
| Signature: (Senior Medical Director)<br><i>R. Spawen</i>      | Date:<br>6/30/08 |
| Signature: (Department Head)<br><i>W. J. [Signature]</i>      | Date:<br>6-26-08 |